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8 UNITED STATES BANKRUPTCY COURT
9 NORTHERN DISTRICT OF CALIFORNIA
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11 In re Simon Chan, Debtor

Case no. 18-40217CN7
A/P No. 18-04060

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13 MICHAEL SCOTT FRAZER, et al.,

**DEFENDANT'S MOTION FOR SUMMARY
JUDGMENT**

14 Plaintiffs,

Date: March 4, 2019

15 v.

Time: 10:00 a.m.

Place: Oakland, Room 215

16 SIMON CHAN, et al.,

17 Defendants.
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1 **MOTION**

2 Defendant Simon Chan moves for summary judgment on the
3 complaint for nondischargeability.

4 The motion is authorized by Federal Rules of Civil Procedure
5 Rule 56, as applied to bankruptcy matters by Federal Rules of
6 Bankruptcy Procedure Rule 7056.

7 The grounds for the motion are principally that Plaintiffs
8 cannot establish multiple elements of nondischargeability
9 required by 11 U.S.C. sec. 523(a)(2)(A) due to the undisputed
10 facts. The undisputed facts based on the documentary evidence
11 establish that Plaintiffs cannot have relied on version 1A-2,
12 1A-4, or 2A-2 of the private placement memorandum when
13 contributing the first \$325,000 of investment funds, and those
14 versions were also not authorized to be sent to the Plaintiffs,
15 therefore Defendant lacks the required scienter as to the
16 remaining \$337,500 in investment funds, among other missing
17 elements.

18 The motion is based on the supporting declarations of Simon
19 Chan and Andrew Watters, as well as the Memorandum of Points and
20 Authorities that follows the motion.

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22 Date: February 1, 2019

Andrew G. Watters

23 Andrew G. Watters, Esq.
24 Attorney for Defendant Simon
25 Chan
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